

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

NATIONAL TECHNICAL SCHOOLS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2778

Decision No. CU **3500**

Counsel for claimant:

Clifford E. Royston, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$108,932.56, was presented by National Schools, and is based upon the asserted loss of a bank account, school equipment, lessons, kits, cash and furniture maintained in an office in Havana, Cuba. National Schools is now known as NATIONAL TECHNICAL SCHOOLS which is designated as claimant herein.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which

have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

Claimant corporation, by an authorized officer, has certified that it was organized in the State of California as National Schools and is now known as NATIONAL TECHNICAL SCHOOLS; that at all times between the date of loss and presentation of this claim on May 1, 1967, with minor exceptions, the stockholders, including trustees of certain trusts, and beneficiaries thereunder, and certain charitable organizations which were organized and exist under the laws of the United States were nationals of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

On the basis of evidence of record, the Commission finds that claimant was operating a school in Cuba at Edificio Suares Baratillo 9 Esq. Obispo, Apartado 3149, Havana, Cuba.

Claimant has submitted a copy of an unnumbered Resolution of the Ministry of Education, Central Office of Provincial Control for Nationalized Schools, dated May 3, 1961, appointing an intervenor to operate the National Schools in Havana, Cuba. Accordingly, the Commission finds that claimant suffered a loss within the meaning of Title V of the Act on May 3, 1961, when its property in Cuba was intervened by the Government of Cuba. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.) Claimant has

also submitted a copy of an unnumbered Law of June 6, 1961, published in the Cuban Official Gazette of June 7, 1961, which nationalized all centers of instruction being operated by private entities, including all properties, rights and interests therein. (See Claim of Calvin R. Hemphill, Claim No. CU-1479.)

The evidence of record includes inventories and additional evidence submitted to the United States State Department by the claimant, including lists of all its properties in Cuba. Such lists are signed and counter-signed following a joint inventory taken by the manager of claimant's schools in Cuba and the Government-appointed intervenor as of May 26, 1961. Further, claimant has submitted bank statements; lists of other personal property, including furniture and fixtures, and educational materials; affidavits and data pertaining to the cost of the unissued educational materials, which include lessons, kits and records.

Based on the properties listed in the inventories and their cost, the Commission finds that the value of the educational materials and the depreciated value of furniture and equipment in the office was \$23,454.42 at the time of the aforesaid taking. The cash on hand included \$478.25 and a "small box" containing \$55.00, or a total of \$533.25.

Claimant has also submitted evidence including bank statements of The Trust Company of Cuba, Havana, disclosing that claimant's Havana branch office maintained a bank account in the aforesaid bank, with a balance of 84,889.85 pesos, as of May 31, 1961. It is noted that on the date of confiscation the peso was on a par with the United States dollar.

Accordingly, the Commission finds that claimant suffered a loss within the meaning of Title V of the Act in the total amount of \$108,877.52 as a result of nationalization of its property by the Government of Cuba on May 3, 1961.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that NATIONAL TECHNICAL SCHOOLS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Eight Thousand Eight Hundred Seventy-seven Dollars and Fifty-two Cents (\$108,877.52), with interest thereon at 6% per annum from May 3, 1961 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

FEB 5 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)